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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Confirm. No. : 3270  
Appl. No. : 10/709,271  
Applicant : Lipawsky  
Filed : April 26, 2004  
Art Unit : 2873  
Examiner : Dang, Hung Xuan  
Title : Eyewear with Semiprecious Gemstones  
Docket No. : LDP-8439

DECLARATION UNDER 37 CFR 1.132

I, Steve Lipawsky, am inventor of the above-captioned invention and president of assignee, Sans Pareil, Inc.

I manufacture and wholesale sell various lines of eyewear to retailers. I show my various lines to buyers who work for the retailers.

One of my lines, titled Hana, includes eyewear with semiprecious stones. The eyewear has a temple (i.e. stems) having sockets formed therein and a semiprecious stone set in the socket and connected to the temple. Specific models within the line incorporate the following semiprecious stones: amazonite, amethyst, blue sandstone, carnelian, coral, dark green aventurine, garnet, gold sandstone, green agate, labradorite, moonstone, mother of pearl, natural red agate, new jade, onyx,

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opal, pearl, picture jasper, pink opal, rhodonite, smoky quartz, sodalite, tiger's eye, turquoise, and yellow jade.

I spent years developing the eyewear with semiprecious stones. The selection of stones, hues, shapes, and thicknesses had to be selected to hide underlying glue, reflect light, provide sufficient color, and remain secured to the eyewear.

The buyers, whose job it is to review various manufacturers' product lines, told me that they had never seen eyewear the incorporated semiprecious stones; I have repeatedly been told by buyers that "Eyewear with semiprecious stones is unique." Furthermore, they based their purchases on the unique quality of my eyewear: i.e., the inclusion of semiprecious stones in the temples of the eyewear. The buyers felt that the inclusion of semiprecious stones as opposed to other types of brilliants made an impression of higher-expense to customers despite the relatively small actual added price of the semiprecious stones.


Orders for the eyewear incorporating semiprecious stones for the past marketing year (the product line's first year) have totaled \$1,150,000.

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In contrast, sales of similar lines that do not incorporate semiprecious stones over the same marketing year have totaled approximately \$700,000, even after having been marketed since 1991.

Low-volume sales of the eyewear with semiprecious stones are made at prices 100% higher than similar eyewear without semiprecious stones. Even high volume discounted sales of eyewear with semiprecious stones are made at prices that are 11% higher than eyewear without semiprecious stones. Furthermore, the line of eyewear with semiprecious stones sells at a price that is 60% higher than applicant's established line of NASCAR® eyewear. These increased prices significantly offset the small additional cost of including the semiprecious stones.

I declare under penalty of perjury that the foregoing is true and correct.

  
Mr. Steven Lipawsky  
President  
Sans Pareil, Inc.

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